

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WILLOW INNOVATIONS, INC.,

Plaintiff,

v.

CHIARO TECHNOLOGY, LTD,

Defendant.

Case No. 2:23-cv-00229

JURY TRIAL DEMANDED

WILLOW’S MOTION FOR SERVICE OF PROCESS BY MAIL

Plaintiff Willow Innovations, Inc. (“Willow”) requests the assistance of the Clerk of Court in serving Defendant Chiaro Technology, Ltd. (“Defendant”), an entity based in the United Kingdom (“UK”). Service by mail is appropriate because it is (1) expressly permitted under the Federal Rules, (2) not prohibited by international agreement, and (3) reasonably calculated to give notice to Defendant of this lawsuit. In addition, because Defendant does not maintain an agent for service in the U.S., service by mail is the most efficient means of accomplishing service.

Under Federal Rule of Civil Procedure 4(h)(2), a foreign corporation, partnership, or other unincorporated association located outside the United States must be served “in any manner prescribed by Rule 4(f) for serving an individual, except personal delivery under (f)(2)(C)(i).” Fed. R. Civ. P. 4(h)(2). Rule 4(f), in turn, states that an individual in a foreign country may be served:

(1) by any internationally agreed means of service that is reasonably calculated to give

notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as prescribed by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

(B) as the foreign authority directs in response to a letter rogatory or letter of request; or

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the complaint to the individual personally; or

(ii) ***using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt***; or

(3) by other means not prohibited by international agreement, as the court orders.

Fed. R. Civ. P. 4(f) (emphasis added).

Defendant, a UK-based entity, may be served by mail under Rule 4(f)(2)(C)(ii). Both the U.S. and the UK are signatories to the Hague Service Convention. Hague Service Convention, Nov. 15, 1965, 20 U.S.T. 361, T.I.A.S. No. 6638. Service “by postal channels” is expressly permitted under Article 10 of the Hague Service Convention, “[p]rovided the State of destination does not object.” *Id.*, art. 10. And the UK has not objected to service by mail under Article 10. *See* <https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/UnitedKingdom.html> (“The United Kingdom did not object to Article 10(a) of the Convention and does permit service via postal channels.”).

This Court has previously authorized service by mail under Rule 4(f)(2)(C)(ii) as to countries that have not objected to Article 10 of the Hague Service Convention. *See, e.g., Vista Peak Ventures, LLC v. GiantPlus Tech. Co.*, No. 2:19-cv-00185-JRG, 2019 WL 4039917, at *2

(E.D. Tex. Aug. 27, 2019) (authorizing service by mail to defendant located in Taiwan); *IntelliGender, LLC v. Soriano*, No. 2:10-cv-00125-JRG, 2012 WL 215066, at *3 (E.D. Tex. Jan. 24, 2012) (authorizing service by mail to defendant located in Chile). Accordingly, service by mail to Defendant's principal place of business in the UK is proper and reasonably calculated to give Defendant notice of this lawsuit.

Pursuant to Rule 4(f)(2)(C)(ii), Willow will provide to the Clerk a pre-addressed envelope with pre-paid postage, along with the Complaint and Summons, for transmission by Federal Express to Defendant's principal office in the UK at the address below, with signed receipt requested.

Chiaro Technology, Limited
63-66 Hatton Garden, Second Floor
London, United Kingdom, EC1N 8LE

Dated: May 25, 2023

/s/ Timothy S. Durst

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